



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,731	08/10/2000	Jerry Thomas Moore	9283/001	9120

24283 7590 05/06/2002

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 05/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/636,731

Applicant(s)
MOORE

Examiner
KURT ROWAN

Art Unit
3643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 25, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-25 is/are pending in the application.
- 4a) Of the above, claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other:

Art Unit: 3643

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of fly boxes must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-18, 23-24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification does not support the base piece covering less than 50% of the chest of a normal adult. Also, the fly boxes being accessed without removing them from the base piece does not have support in the disclosure.

Art Unit: 3643

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18, 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 25 recite that a fastener releasably secures any one of a plurality of fly boxes to the base piece so they can be accessed without removing them from the base piece. This is confusing since what is the point of having the fly boxes be removable if they can be accessed without removal ?

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-12, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller '112 in view of Parkhurst.

The patent to Miller shows a base piece 17 for holding a fishing tackle box 23, a harness 11 and a fishing rod holder 90-93 which can be considered as a U-shaped trough as shown in Fig.8 having

Art Unit: 3643

a clamp 96. Miller shows a fastener 77 to secure the fly box to the base piece. The fishing rod holder is attached to the fly box by way of closed front wall 18 and configured to hold the fishing rod in a horizontal orientation as shown in Fig. 3. The tackle box can be considered as a pocket-sized fly box since the size of a pocket has not been stated. The patent to Parkhurst shows a belt 10 having tackle compartments 50 for holding a plurality of containers 58 having caps 60 and a fishing rod holder for holding a fishing rod 36, 38 as shown in Fig. 1. In reference to claim 1, it would have been obvious to provide Miller with a plurality of pocket-sized fly boxes which can be accessed without removing them from the base piece as shown by Parkhurst for the purpose of carrying different types of fishing equipment such as hooks, dry flies, wet flies. This would allow the angler to keep tackle organized, for example, keep all of the number 20 flies in one container and all number 12 flies in another container. Miller secures the base piece to the waist of a user, but it would have been obvious to secure the base piece to the chest by merely shortening strap 11 and mounting the strap 29-30 to a belt such as for fishing in deeper water when wearing waders. Miller appears to cover less than 50% of the chest in a normal adult human. In reference to claim 9, Miller does not show the outer edge of the support plate and the proximate upper edge of the fishing rod holder being formed by a bend in a single piece of construction material. However, it would have been obvious to form the outer edge of the support plate and the proximate upper edge of the fishing rod holder from a single piece of construction material since the function is the same and no stated problem is solved. In reference to claim 10, Miller shows a 90 degree angle between the rod holder and the outer edge of the support plate in Fig. 8. In

Art Unit: 3643

reference to claim 11, Miller shows a fastener 77 to secure the pocket-sized fly box to the base piece when the fly box is in a vertical closed position as shown in Fig. 6 and a horizontal flat position as shown in Fig. 3, but it would have been obvious to employ more than one fastener for multiplied effect. See *In re Harza*, 124 USPQ 378.

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller.

The patent to Miller shows a portable system having a chest fly box as discussed above. Miller shows fastener 57. Miller shows in Fig. 4 that the fishing rod is held in a vertical position when the fly box is being accessed. However, Miller is configured so that the fly box can be accessed when the fishing rod is in a horizontal orientation noting that when the rod shown in Fig. 4 is rotated 90 degrees forwardly, that the tackle box can be opened and by slightly opening the top, the contents will not be spilled. Note the claim merely recites that the fly box can be accessed when the rod is in a horizontal orientation. Miller shows all of the elements recited with the exception of the fly box support and the fishing rod holder are made from single piece of rigid material. However, it would have been obvious to make the portable system from a single piece of rigid material since the function is the same and no stated problem is solved. See *In re Larson et al*, 144 USPQ 347.

Art Unit: 3643

Allowable Subject Matter

9. Claims 13-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if the rejections under 35 USC 112, first and second paragraphs are overcome.

Response to Arguments

10. Applicant's arguments filed March 25, 2002 have been fully considered but they are not persuasive. Claims 19-21 have been withdrawn from consideration and will be reinstated upon the allowance of a generic claim. Miller shows a fastener 77 for securing the fly box. As to claim 4, applicant should state what limitations are not found in Miller since Miller shows vertical chest plate 17 and horizontal support plate 19. Claim 25 does not recite that the system is secured to the chest of a fisherman. Miller shows a fly box and rod holder mounted around the waist and chest (due to strap 11) of a user. As to forming a fly box from a single piece of construction material, having a two piece construction does not require complex joining parts, the two parts can function together, a two piece construction does not require strings or straps that get in the way as stated. As to opening the fly box of Miller when the fishing rods are horizontal, see the above rejection.

Art Unit: 3643

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Art Unit: 3643

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read "Kurt Rowan". The signature is fluid and cursive, with a checkmark-like flourish at the end.

KURT ROWAN

PRIMARY EXAMINER

ART UNIT 3643

May 2, 2002